IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:21-CV-262-D

SARAH BEASLEY KOGELSCHATZ,)	
Plaintiff,)	
v.)	ORDER
STEVEN PAUL KOGELSCHATZ,)	
Defendant.)	

On June 18, 2021, defendant, appearing pro se, removed this action from the North Carolina General Court of Justice, Wayne County District Court Division [D.E. 1], and filed a motion to proceed in forma pauperis [D.E. 2]. Pursuant to 28 U.S.C. § 636(b)(1), the court referred the matter to Magistrate Judge Kimberly A. Swank for a memorandum and recommendation on the plaintiff's motion to proceed in forma pauperis and for a frivolity review [D.E. 7]. On June 24, 2021, Magistrate Judge Swank issued a Memorandum and Recommendation ("M&R") and recommended that the court grant defendant's motion to proceed in forma pauperis and remand the case to the North Carolina General Court of Justice, Wayne County District Court Division. See [D.E. 8]. On July 6, 2021, plaintiff filed a submission to make a complete record [D.E. 10]. Neither party objected to the M&R.

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made." <u>Diamond v. Colonial Life & Accident Ins. Co.</u>, 416 F.3d 310, 315 (4th Cir. 2005) (alteration, emphasis, and quotation omitted); <u>see</u> 28 U.S.C. § 636(b). Absent a timely

objection, "a district court need not conduct a de novo review, but instead must only satisfy itself that

there is no clear error on the face of the record in order to accept the recommendation." Diamond,

416 F.3d at 315 (quotation omitted). If a party makes only general objections, de novo review is not

required. See Wells v. Shriners Hosp., 109 F.3d 198, 200 (4th Cir. 1997). In "order to preserve for

appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation

on that issue with sufficient specificity so as reasonably to alert the district court of the true ground

for the objection." Martin v. Duffy, 858 F.3d 239, 245 (4th Cir. 2017) (quotation omitted); see

United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007).

The court has reviewed the M&R and the record. The court is satisfied that there is no clear

error on the face of the record. See Diamond, 416 F.3d at 315. Thus, the court adopts the conclusion

in the M&R that the court lacks subject-matter jurisdiction and remands the case to the North

Carolina General Court of Justice, Wayne County District Court Division.

In sum, the court GRANTS defendant's motion to proceed in forma pauperis [D.E. 2],

STRIKES the notice of removal, and REMANDS the case to the North Carolina General Court of

Justice, Wayne County District Court Division. The clerk shall close the case.

SO ORDERED. This 20 day of July 2021.

AMES C. DEVER III

United States District Judge